

Congress of the United States

Washington, DC 20515

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October 10, 2002

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Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

Re: WT Docket No. 02-276~~Dear~~ Chairman Powell:

In the interest of our nation's economy and the integrity of FCC spectrum license auctions, we are writing to urge you to move quickly to provide the winning bidders in Auction **35** with the option to remove themselves from their obligations.

Nearly two years ago, the FCC re-auctioned NextWave's licenses in Auction **35** while those licenses were still the subject of bankruptcy proceedings. While **some** risk and delay was contemplated at that time, the extent of the ensuing uncertainty, combined with dramatically altered market conditions and renewed urgent public safety priorities, has made Auction **35** a liability for wireless carriers and their customers. Litigation and appeals related to the re-auctioned NextWave licenses could last another **two years** or more, meaning that bidders could have to wait as long as four years from the date of Auction **35** to receive the promised licenses, if they ever receive them. Due to the already excessive delay, a number of the bidders have been forced to proceed with dramatically altered business plans.

What has resulted is both inequitable and inefficient. The inability of the FCC to deliver licenses to Auction **35** bidders is having a detrimental effect on our economy in the short term and it will almost definitely result in discounting by telecommunications providers in future auctions – thereby lowering the value of spectrum licenses owned by the public.

We therefore support the FCC's public notice seeking comment on Auction **35** opt-out procedures and we urge you to move expeditiously in implementing the opt-out regime, without conditions, so that wireless carriers can remove the Auction **35** capital overhang and resume serving their customers.

The concerns over Auction **35** are particularly acute in the Commonwealth of Virginia. As you are probably aware, much of Virginia's economy is technology based. Wireless services are critical to the growth and day-to-day operations of our technology firms. New hiring is being stifled because of the stagnancy of the telecommunications

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industry in Virginia. Additionally, Virginia is home to more military and homeland **defense** command infrastructure than any other state in the nation. **The** unparalleled quality and capacity of wireless communications is essential to maintain **the** security of **this** infrastructure. The overhang of Auction 35 impairs the ability of wireless **carriers** to meet these needs.

While **the** stock market continues **in** its fits and starts, pnvate investors have lost over **\$2** trillion in the telecommunications sector. Your timely action on Auction **35** could provide a much needed boost for investor confidence in **the** industry **and** eliminate **the** almost \$16 billion in contingent liability that wireless providers today **can** neither spend nor borrow.

By releasing the successful bidders on Auction 35, they would **be** free to make investments, create jobs and provide new and better services for consumers and taxpayers.

We urge you to move quickly to allow Auction 35 bidders to opt out.

Thank you for your time **and** attention to this matter.

Sincerely,

Dick Boucher

Bob Goodlatte

Edward L. Schuch
VA-2

Jo Ann Davis

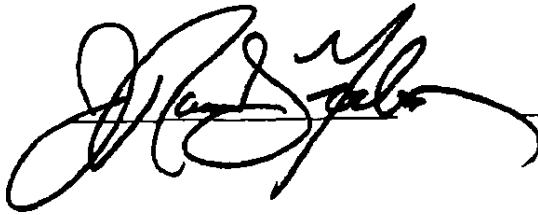
Vigil Goode, Jr.

Jon Davis

Lin Cents

Bobby Scott

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A handwritten signature in black ink, appearing to be "J. Bolcher", is written over a horizontal line.